

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

DANIEL PATRICK DAY, §  
§  
VS. § CIVIL ACTION NO.4:09-CV-196-Y  
§  
RICK THALER, §  
Director, T.D.C.J. §  
Correctional Institutions Div., §

ORDER ADOPTING MAGISTRATE JUDGE'S FINDINGS AND CONCLUSIONS

In this action brought by petitioner Daniel Patrick Day under 28 U.S.C. § 2254, the Court has made an independent review of the following matters in the above-styled and numbered cause:

1. The pleadings and record;
2. The proposed findings, conclusions, and recommendation of the United States magistrate judge filed on September 23, 2009; and
3. The petitioner's written objections to the proposed findings, conclusions, and recommendation of the United States magistrate judge filed on November 9, 2009.

The Court, after **de novo** review, concludes that Petitioner's objections must be overruled, and that the petition for writ of habeas corpus should be denied, for the reasons stated in the magistrate judge's findings and conclusions, and with regard to the allegations of ineffective assistance of counsel, for the additional reasons stated in Respondent's answer at pages 13-19.

Therefore, the findings, conclusions and recommendation of the magistrate judge are ADOPTED.

Petitioner Daniel Patrick Day's petition for writ of habeas corpus is DENIED.

SIGNED November 16, 2009.

  
TERRY R. MEANS  
UNITED STATES DISTRICT JUDGE